

FRAUD

Purpose: This category is about fraud or unlawful practices in obtaining cash or medical assistance, food assistance intentional program violations and administrative disqualification hearings.

WAC 388-446-0001 Cash and medical assistance fraud.

- (1) All cash or medical assistance cases in which substantial evidence is found supporting a finding of fraud are referred to the county prosecuting attorney. The prosecuting attorney's office determines which cases are subject to criminal prosecution.
- (2) An applicant or recipient is suspected of committing fraud if intentional misstatement or failure to reveal information affecting eligibility results in an overpayment.

CLARIFYING INFORMATION

1. This category called FRAUD is very closely related to the **BENEFIT ERRORS** and the **FAIR HEARINGS** categories. An overpayment of benefits precedes a referral to the court system or to an Administrative Disqualification Hearing for a determination of fraud. The process begins when the department becomes aware of facts which indicate that an overpayment has occurred and that the overpayment may be the result of a client's intent to reveal or misrepresent facts to the department.
2. Discovery of possible fraudulent or unlawful practices may result from complaints or information received into the local office (CSO) in a variety of ways:
 - a. Direct calls to the CSO;
 - b. Welfare Fraud Hot Line Complaint (1-800-562-6906);
 - c. Client change of circumstance report;
 - d. Verification and Overpayment Control System (VOCS) Complaint;
 - e. ESD Quarterly Earnings Alert or Comparison Report

- f. Fraud Early Detection Program (FRED) investigations
 - g. A Quality Assurance review.
3. The Financial Service Specialist (FSS) can establish an Intentional overpayment if the client received incorrect cash benefits and there is evidence in the case record showing intent. Intent means that the client knows what facts or changes to report, when to report those changes, had the opportunity to report, and chose not to report. Intent also implies that the client didn't report a change or a fact because they knew that reporting it would probably have a negative effect on their benefits.
 4. After establishing an intentional cash overpayment, the case is referred to the Division of Fraud Investigation (DFI) for possible prosecution. The client has the right to a Fair Hearing over the establishment of the overpayment and the intentional designation. See **BENEFIT ERRORS** and **FAIR HEARINGS**.
 5. When the overpayment involves food assistance, federal law states that only a court of law or an Administrative Disqualification Hearing can determine an Intentional Program Violation (IPV). The FSS establishes an unintentional overpayment, called Inadvertent Error, and refers, with any cash overpayment, to DFI for prosecution.
 6. If the food assistance overpayment, or separate instances of suspected IVP total \$450.00, the FSS proceeds with an Administrative Disqualification Hearing, according to CSO policy. See **FAIR HEARINGS**.
 7. The Fraud Early Detection program (FRED) is under the direction of the Division of Fraud Investigation and provides criminal investigators when activities are required that go beyond the scope of the Financial Services Specialist's authority. The purpose of FRED is to:
 - a. Provide a cost effective measure for reduction of errors;
 - b. Save benefit funds for families requiring assistance;
 - c. Reduce investigation and prosecution of recipients by resolving questionable circumstances prior to the authorization of benefits.
 8. FRED investigators assist the department in the following ways:

- a. Obtain information requested by the FSS;
- b. Use interviews with clients and third parties (called collateral contacts) to resolve questions or inconsistencies;
- c. Report findings to the FSS
- d. Make recommendations regarding criminal prosecution;
- e. Participate in Fair Hearings, if necessary.

WORKER RESPONSIBILITIES

1. The investigation of information for possible overpayment has priorities as follows:
 - a. First Priority: Current or future eligibility or payment / Active cash or food assistance cases
 - b. Second Priority Past overpayment of benefits / Active cash or food assistance cases
 - c. Third Priority Closed cash / food assistance cases
 - d. Last Priority Medical only assistance cases
2. Use the VOCS process when investigating complaints which typically fall under the authority of an FSS. The purpose of VOCS is to:
 - a. Identify error trends and procedural changes or training needed to prevent error;
 - b. Have a set procedure for the processing of complaints and overpayments alleging Welfare Fraud;
 - c. Record the resolution and disposition of complaints.
3. Initiate a VOCS referral using ACES Letter <VOC1> when:
 - a. Information received indicates either program ineligibility or benefit payment error; and

- b. It appears to be the result of deliberate client error.
- 4. Route a copy of a VOCS referral to the VOCS clerk for entry into the record keeping system.

PROCESSING A VOCS REFERRAL

- 1. The responsibility for VOCS processing may be the work duty of:
 - a. A designated VOCS worker within a CSO;
 - b. An FSS, for VOCS complaints which fall within their assigned work load;
or
 - c. A Division of Fraud Investigation worker.
- 2. Screen VOCS referrals received from others and route the complaint to other divisions or locations as indicated:
 - a. Abuse or neglect of children to the Division of Children and Family Services (DCFS);
 - b. Abuse, neglect or misuse of monies of adults to Home and Community Services (HCS) or Adult Protective Services (APS) hotline number: 1-800-422-3263;
 - c. Mistreatment of nursing home clients or misuse of their funds to APS, Residential Care Services, Complaint Resolution Unit (CRU) at hotline number: 1-800-562-6078.
 - d. Misuse of funds by medical providers to Division of Provider Services (DPS) or to the Medicaid Fraud Control Unit, Phone number: (253) 593-2154.
 - e. Contractor or vendor complaints to Central Contract Services;
 - f. Complaints alleging fraudulent receipt of SSI benefits to the Social Security Administration.

3. When resolving a VOCS complaint, request information and verification first from the client. The client is the primary contact person for information.
 - a. A signed Application or Eligibility Review gives DSHS permission to contact a third party for verification of information necessary to establish eligibility. If the client is unwilling or unable to provide verification, request the information / verification directly from the collateral contact.
 - b. Request assistance from FRED in situations outlined below under FRED.

See **NOTICES and LETTERS** for the ACES letters with specific forms attached.

4. Dispose of a VOCS referral as follows:
 - a. Complete the overpayment or other necessary action (see **BENEFIT ERROR** or **CHANGE OR CIRCUMSTANCE**);
 - b. Indicate the result and findings on the <VOC1>;
 - c. Mark the complaint valid or invalid;
 - d. Indicate whether a DFI referral is initiated;
 - e. File a copy in the case file;
 - f. Route a copy to the VOCS clerk for recording.
5. The time frames for processing a VOCS referral are:
 - a. 30 days, if the complaint involves current eligibility or payment;
 - b. For all other complaints, the end of the quarter following the quarter in which the complaint is received in the CSO.
6. Retain a separate VOCS case file for VOCS complaints, whether valid or invalid.

Place the following documents in the VOCS file:

 - a. The printed VOCS referral (VOC1);
 - b. All communication with the client and collateral contacts;

- c. Copies of the overpayment calculations and letters;
 - d. Originals or copies of documents taken from the physical record to support the intent allegation;
 - e. The DFI referral;
 - f. The summary sheet of all action taken (VOC2).
7. Retain the VOCS file for one year after the action is completed. Flag the file if the case is under consideration for prosecution to make sure that the record is not purged in error. Before purging, return all original documents to the financial case record, except those for which confidentiality is an issue. Destroy those documents in the purge.
8. Retain the VOCS file beyond one year when other, similar complaints are under investigation. Overpayments can be combined to demonstrate intent for prosecution.

CONTROL FROM FRAUD EARLY DETECTION PROGRAM (FRED)

1. Initiate a FRED referral ACES Letter <FRED> when:
- a. A collateral contact does not respond with requested information;
 - b. The information received from the client or contact raises inconsistencies or is unclear, unconvincing, or questionable;
 - c. Verification documents can not be retained through normal methods available to an FSS;
 - d. According to CSO policy on initial applications;
 - e. The application interview raises questions or concerns about the reported facts.
2. Some examples of situations where a FRED referral is in order:

- a. The client's household expenses are within \$25.00 of the income available, and shelter and utilities are paid up to date;
 - b. The physical record indicates previous ownership of real property, but the client states no ownership on a new application. The client does not provide adequate or convincing verification on the status of the property.
 - c. Numerous complaints have been received of a client having multiple vehicles on the property and it appears that the client is restoring and selling the vehicles. The client denies any such thing and states that the cars are there temporarily and belong to a relative.
 - d. Client reports living alone and the landlord statement reflects the same information; but a complaint received shows others are in the home and supporting the client.
 - e. Client has a history of working for cash and not reporting. There is currently no source of income being reported for the household and the client does not have a reasonable explanation of how expenses are being met.
 - f. Client states that the absent parent (a/p) has left the home but cannot say where the a/p is located. The landlord states that to his knowledge, both parents reside in the home but the client states that he only comes to visit the children.
3. Dispose of a FRED response as follows:
- a. If the referral contains facts which adversely affect current or future eligibility or payment, follow procedures found in **CHANGE OF CIRCUMSTANCE**;
 - b. If an overpayment is identified; follow procedures in **BENEFIT ERROR**;
 - c. Complete the return response to FRED, indicating the action taken.

REFERRAL TO THE DIVISION OF FRAUD INVESTIGATION (DFI)

1. Refer to DFI with ACES Letter <ROSI> when:

- a. An intentional cash assistance overpayment has been identified and processed;
 - b. A food assistance overpayment has been completed which appears to be intentional;
 - c. Documents in the case record appear to give clear evidence of the client's willful concealment of information or intentional failure to reveal information which caused the overpayment.
2. List the documents in the case file which demonstrate intent on the <ROSI> referral form. Documents to examine for that time period include:
 - a. Rights and Responsibilities signed by client;
 - b. Application showing facts omitted or false information declared;
 - c. Eligibility Review reflecting circumstances found later to be untrue;
 - d. Monthly report completed and signed but does not report the change;
 - e. Change of Circumstance reporting one change but not another.
 - f. Any other document presented by the client or a collateral contact which demonstrates the intent of the client to give misleading or incorrect information in order to receive benefits.
3. Create alert #450 for a 60 day response from DFI. If no response is received, request a response date. DFI will respond with their decision on forwarding the case for prosecution and instructions to the worker on whether to proceed with the Food Assistance Disqualification Hearing.
4. Follow the CSO policy regarding the preparation of cases for prosecution. In some CSOs, the FSS is responsible for the copying of documents to be used in the prosecution's case.

WAC 388-446-0005 Disqualification period for cash assistance.

- (1) An applicant or recipient who has been convicted of unlawful practices in obtaining cash assistance is disqualified from receiving further cash benefits if:

- (a) For TANF/SFA, the conviction was based on actions which occurred on or after May 1, 1997; or
 - (b) For general assistance, the conviction was based on actions which occurred on or after July 23, 1995.
- (2) The disqualification period must be determined by the court and will be:
 - (a) For a first conviction, no less than six months; and
 - (b) For a second or subsequent conviction, no less than twelve months.
- (3) The disqualification applies only to the person convicted and begins on the date of conviction.
- (4) A recipient's cash benefits are terminated following advance or adequate notice requirements as specified in WAC 388-418-0030.

WAC 388-446-0010 TANF disqualification period for fraud convictions of misrepresenting interstate residence.

- (1) An applicant or recipient is disqualified from receiving cash benefits under TANF if convicted of fraud by misrepresentation of residence in order to receive assistance from two or more states at the same time from any assistance program funded by the following:
 - (a) TANF and any other benefit authorized by Title IV -A of the Social Security Act; or
 - (b) Any benefit authorized by The Food Stamp Act of 1997; or
 - (c) Any benefit authorized by Title XIX, Medicaid; or
 - (d) SSI benefits authorized by Title XVI.
- (2) The disqualification penalty is applied as follows:
 - (a) Only to convictions based on actions which occurred on or after May 1.

1997; and

- (b) Only to the person convicted of fraud in federal or state court; and
 - (c) For a disqualification period of ten years or a period determined by the court, whichever is longer.
- (3) The disqualification period begins the date the person is convicted of fraud by misrepresentation of residence in order to receive assistance from two or more states at the same time.
- (4) The provisions of subsections (1) through (3) of this section do not apply when the President of the United States has granted a pardon for the conduct resulting in the conviction of fraud by misrepresentation of residence. The disregard of the provisions because of a pardon is effective the date the pardon is granted and continues for each month thereafter.

ACES PROCEDURES

Follow these procedures when a client has been convicted of fraud either because of intentional concealment or misrepresentation of facts in order to qualify for assistance or for misrepresentation of residence in order to receive cash assistance in more than one state at the same time (called state-hopping);

1. If the case is closed when the decision is received, follow these procedures:
 - a. Access the assistance unit case file through the Inquiry function;
 - b. Type <DONE> over the screen name at top right corner, <TRANSMIT>;
 - c. Press <F22> to access the narrative screen (NARR);
 - d. Press <F19> and narrate the information on the decision;
 - e. When the client reapplies, the message will alert the worker.
 - f. File the court papers in a prominent place in the case file where it will be seen when the client reapplies.
2. For applications where a conviction penalty is in effect:

- a. On the (DEM4) screen of the client who has been convicted, enter the following:
 - (1) For state hopping, enter [Y] on question #5.
 - b. Confirm eligibility and issue the appropriate denial letter during Finalizing.
3. If the client is active on a cash grant follow these procedures:
- a. From the AMEN, select [R] and enter the AU/Client ID; <TRANSMIT>
 - b. Go to the (DEM4) screen and follow directions on (2)(a) above.
 - c. Type <DONE> over the screen name at top right corner. <TRANSMIT>
 - d. On the (ELIG) screen for the cash AU, ACES has updated the (Fin Resp) code of the client to [RN] with a status reason code of:
 - (1) #262 for state hopping; or
 - (2) #263 for unlawful practices.
 - e. Confirm eligibility and <TRANSMIT>.
 - f. Confirm Financial Eligibility on the (CAFI) screen, override the notice, and send ACES letter C01G.

NOTE: The food assistance benefits will increase due to the reduction of the grant. You must override the notice and send the C01G for the food assistance also. <TRANSMIT>

WARNING: ACES has no way of determining when the penalty period ends. You must manually track this through the use of Alert #450. See ACES for details on creating alerts.

WAC 388-446-0015 Intentional program violation (IPV) and disqualification hearings for food assistance.

- (1) An intentional program violation (IPV) is defined as an act in which a person intentionally:

- (a) Makes a false or misleading statement;
 - (b) Misrepresents, conceals or withholds facts; or
 - (c) Acts in violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.
- (2) Food assistance clients suspected of committing an (IPV) are subject to referral for an administrative disqualification hearing, if:
 - (a) The suspected IPV causes an overissuance of four hundred fifty dollars or more; and
 - (b) The administrative proceedings will not jeopardize criminal proceedings; and
 - (c) The person resides in Washington State, but is within one hour's reasonable drive to a CSO.
- (3) An administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. ADHs are governed by the rules found in chapter 388-08 WAC. However, rules in this section are the overriding authority if there is a conflict.
- (4) A client who commits one or more IPV's and is suspected of committing another, is referred for ADH when the act of suspected violation occurred:
 - (a) After the department mailed the disqualification notice to the client for the most recent IPV; or
 - (b) After an order was entered in criminal proceedings for the most recent IPV.
- (5) A person suspected of IPV is entitled to receive notice of an ADH at least thirty days in advance of the hearing date. The notice is sent by certified mail, or provided to the client by personal service and will contain the following:
 - (a) The date, time and place of the hearing;

- (b) The charges against the individual;
 - (c) A summary of the evidence, and how and where the evidence can be examined;
 - (d) A warning that a decision will be based solely on evidence provided by the department, if the individual fails to appear at the hearing;
 - (e) A statement that the individual has ten days from the date of the scheduled hearing to show good cause for failure to appear at the hearing and to request rescheduling;
 - (f) A warning that a determination of IPV will result in a disqualification period; and
 - (g) A statement that if a telephone hearing is scheduled, the individual can request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.
- (6) The person or representative shall have the right to one continuance of up to thirty days if a request is filed ten days or more prior to the hearing date.
- (7) The hearing will be conducted and a decision rendered even if the person or representative fail to appear, unless within ten days from the date of the scheduled hearing;
- (a) The person can show good cause for failing to appear; and
 - (b) The person or representative requests the hearing be re-instated.
- (8) A scheduled telephone hearing may be changed to an in-person hearing if requested one week or more in advance. If requested less than one week in advance the person must show good cause for the requested change.
- (9) The ALJ issues a preliminary decision based on evidence presented by the department establishing the person committed and intended to commit an IPV. The department and the client each have the right to request a review of the ALJ's decision by writing to the department's board of appeals as specified in WAC 388-08-464.

- (10) A final decision of the disqualification hearing is mailed by the department's board of appeals.
- (11) A client's disqualification is not implemented and benefits continue at the current amount when:
 - (a) The client can show good cause for not attending the hearing within thirty days from the date the disqualification notice was mailed; and
 - (b) An administrative law judge determines the client had good cause; or
 - (c) The client files a petition for review to appeal the disqualification.
- (12) An administrative disqualification hearing and an overissuance hearing can be combined when the cause for both hearings is related. The hearing procedures and notice requirements are the same as for administrative disqualification hearings.

CLARIFYING INFORMATION

1. Separate instances of suspected Intentional Program Violation (IPV) of the Food Assistance program can be combined into one complaint that totals \$450.00 or more and can then be taken to an Administrative Disqualification Hearing (ADH). See **FAIR HEARINGS** for ADH Worker Responsibilities.
2. The department must prove the IPV with clear and convincing evidence. This means that the evidence must establish that it is highly probable the actions that resulted in the overpayment were intentional.
3. An IPV can be determined either by a court decision in a criminal prosecution or the decision by an ADH.
4. DFI must always be informed if an ADH is in process on a case referred to them for possible prosecution. Although it is not necessary to delay an ADH pending prosecution, DFI may want to delay it if in their opinion it would hurt the prosecution's case.
5. The DSHS Board of Appeals is responsible for issuing the final order in ADH. See WAC 388-04-464(1).

6. The Disqualified Recipient System (DRS) is a nationwide exchange of information between the Federal government and the States regarding IPV decision. DRS interfaces with ACES on a monthly basis and notifies the worker of record of a discrepancy using a two tiered alert.

The second tier displays the disqualification details including:

- a. The effective date;
- b. The length;
- c. The type;
- d. A five digit code. The first two digits represent the state, the last three, the county. Press<F1>.

WORKER RESPONSIBILITIES

A 10 day advance notice must be given to any client who is being disqualified from food assistance.

Timely disqualifications:

1. For an ADH decision, disqualify the person who has committed the IPV effective the first of the month following the date the person and the department are notified in writing of the ADH decision.
2. For a court decision, a timely disqualification is within 45 days of the date of the written order unless the court specifically sets a different time frame.
3. If a disqualification is not processed timely, disqualify the person for the remaining time of the penalty period. Do not disqualify a person once the disqualification period which should have been applied has expired. Establish an Administrative Error overpayment for the time period from the first day of the intended month of disqualification until the effective date of the action.

EXAMPLE

A recipient of food assistance has been disqualified by written order of the court dated 01/20/XX. The disqualification must be established by 03/01/XX to be timely. The decision was delayed in the mail and not received by the department

until 02/28/XX. Because of the ten day advance notice rule, the disqualification can not be implemented until 04/01/XX. There is a one month administrative overpayment for the month of March. The penalty time is from 03/10/XX to 02/28 of the next year.

4. Once the disqualification period has been implemented, it continues uninterrupted regardless of the eligibility of the assistance unit.

ACES PROCEDURES

1. On a closed case, access the narrative screen and document the decision. See instructions under Fraud cash assistance Worker Responsibilities (1)(a-e). Send letter DQ1F if the disqualification is the result of an ADH, or letter DQ2F if a result of a court decision. File the order
2. On a food assistance active case, take the following steps in ACES after receiving the court decision of a conviction for fraud in food assistance, or the final order on an Administrative Disqualification Hearing decision.
 - a. Access the AU from the AMEN and go to the (DEM2) screen for the client convicted of an IPV.
 - b. Enter IPV type [W] in the (IPV Ind) field.
 - c. Enter the number of the disqualification offense (1 for the first offense, etc.)
 - d. Enter the date of the court or Administrative Disqualification Hearing decision.
 - e. Call up the (DEM4) screen for the client.
 - f. Enter [Y] for questions 5 and 6 if applicable.
 - g. Call up the FS (STAT) screen and enter the penalty type [W] and the end date for the penalty based on information entered on the (DEM2) screen.
 - h. Call up the (DONE) screen.
 - i. On the FS (ELIG) screen, ACES has updated the client's (Fin Resp) code to [ID] with the status reason #232. Confirm. <TRANSMIT>

- j. Confirm Financial Eligibility on the (FSFI) screen, override the notice and send letter CO1G with the following information:
 - (1) The name of the disqualified person;
 - (2) The effective date;
 - (3) The length of the penalty;
 - (4) The new food assistance benefit amount for the remaining members.
- 3. For applications, enter information about the Disqualification on the screens as outlined above. Confirm eligibility and issue the appropriate Denial letter (for the client or the entire AU) during Finalizing.

NOTE: If the client is eligible for food assistance during part of the application period, enter the disqualification information during the Processing function for the months of disqualification.
- 4. When an alert is received through the DRS, access the disqualification data through the second tier screen which displays the details.
 - a. Screen print the data for the case file;
 - b. Follow the instructions in 2(a-j) except enter IPV type [D] on the (DEM2) and (STAT) screens.

WAC 388-446-0020 Food assistance disqualification penalties.

- (1) Disqualification penalties apply only to the person or persons found to have committed an intentional program violation (IPV) as follows:
 - (a) If the intentional program violation occurred in whole or in part after the household was notified of the following penalties:
 - (i) Twelve months for the first violation;
 - (ii) Twenty-four months for the second violation;

- (iii) Permanently for the third violation.
- (b) If the violation ended before the household was notified of the penalties in subsection (1)(a) of this section:
 - (i) Six months for the first violation;
 - (ii) Twelve months for the second violation'
 - (iii) Permanently for the third violation.
- (2) The disqualification and penalty period for a person convicted in another state stays in effect until satisfied regardless of where a person moves.
- (3) Multiple program violations are considered as one violation when determining the penalty for disqualification when the violations occurred before the department notified the household of the penalties, as described in subsection (1), (4) and (5) of this section.
- (4) Disqualification penalties for persons convicted by a federal, state, or local court of trading or receiving food coupons for a controlled substance are:
 - (a) Two years for a first conviction; and
 - (b) Permanently for a second conviction.
- (5) A first convictions by a federal, state, or local court permanently disqualifies persons who:
 - (a) Trade or receive food coupons for firearms, ammunition, or explosives; or
 - (b) Knowingly buy, sell, trade, or present for redemption food coupons totaling five hundred dollars or more in violation of section 15(b) & (c) of the Food Stamp Act of 1977, as amended.
- (6) Persons convicted of providing false identification or residency information to receive multiple coupon benefits are disqualified for ten years.
- (7) When a court convicts a person of an IPV, the disqualification penalties specified in subsection (1) through (5) apply as follows:

- (a) In addition to any civil or criminal penalties; and
 - (b) Within forty-five days of the date of conviction; unless
 - (c) Contrary to the court order.
- (8) Disqualification penalties are applied after notifying the household of the disqualification, the effective date, the amount of benefits the household will receive during the disqualification period and the need to reapply when the certification period expires.
- (9) Even though only the individual is disqualified, the food assistance household is responsible for making restitution for the amount of any overpayment.